

STATE OF NORTH DAKOTA
BEFORE THE COMMISSIONER OF INSURANCE

In the Matter of)	
)	
Mid-Continent Casualty Company,)	CONSENT ORDER
FEIN 73-0556513,)	
)	
Respondent.)	

Commissioner of Insurance Jim Poolman (hereinafter "Commissioner") has determined as follows:

1. The Commissioner has authority in this matter pursuant to N.D. Cent. Code Title 26.1 and N.D. Cent. Code § 28-32-05.1.
2. Mid-Continent Casualty Company, FEIN 73-0556513 (hereinafter "Respondent"), is a foreign insurance company domiciled in Oklahoma and licensed to do business in North Dakota pursuant to N.D. Cent. Code Chapter 26.1-11.
3. The Commissioner has jurisdiction over the Respondent and the subject matter of this Consent Order is made in the public interest.
4. Respondent has a Welding & Cutting rate filed and approved with the Department. The rate is based upon ISO's classification table and a combination of ISO loss costs and Respondent's filed and approved loss cost multiplier. For this particular class, Respondent determined internally that the rate developed from the ISO loss cost was inadequate for the risk. Respondent "solved" this problem by creating a "dump code" entitled Cutting & Welding for which there was no filed ISO loss cost. Respondent then selected a rate for the new

class that they felt was adequate. By using the dump code and rate, Respondent was charging a premium based upon a rate that was not approved by the Department. Respondent's action of increasing a rate without approval violates N.D. Cent. Code § 26.1-25-04 (copy attached).

5. Respondent improperly overcharged 31 policyholders approximately \$51,309 in total and has agreed to refund the overcharges.

6. As a result of information obtained by the Department regarding the conduct of Respondent, the Commissioner has considered scheduling a formal hearing to determine whether Respondent's conduct, as alleged, constitutes a basis for imposition of civil penalty, or any action that the Commissioner deems necessary.

7. As a result of the above violation, Respondent is subject to payment of an administrative monetary penalty of up to \$10,000 under N.D. Cent. Code § 26.1-01-03.3.

8. Respondent has agreed to an informal disposition of this matter, without a hearing, as provided under N.D. Cent. Code § 28-32-05.1.

9. For purposes of resolving this matter, without further administrative proceedings, Respondent and the Commissioner have agreed to enter the following Order:

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

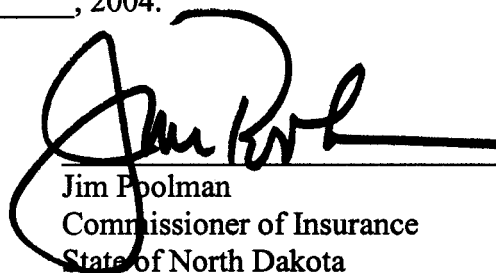
1. Respondent will refund to the policyholders the amounts improperly overcharged totaling \$51,309.

2. Respondent is assessed an administrative penalty in the amount of \$1,000 which shall be paid within fifteen (15) days of the execution of this Order.

3. The use of this Consent Order for competitive purposes by an insurance agent or agency holding a license in the State of North Dakota, or by any company holding a Certificate

of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority.

DATED this 21st day of May, 2004.


Jim Poolman
Commissioner of Insurance
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, J. L. Pierce, on behalf of **Mid-Continent Casualty Company**, states that he/she has read the foregoing Consent Order, that he/she knows and fully understands its contents and effect; that he/she has been advised of his/her right to be represented by legal counsel, his/her right to a hearing in this matter, his/her right to present evidence and arguments to the Commissioner, and his/her right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order he/she waives those rights in their entirety, and consents to entry of this Order by the Commissioner of Insurance. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either expressed or implied.

DATED this 10th day of May, 2004.

Mid-Continent Casualty Company

By: 

Name

President

Title

26.1-25-04. Rate filings.

1. Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum class rate, rating schedule or rating plan, and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every filing must state the proposed effective date thereof and must indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports the filing, and the commissioner does not have sufficient information to determine whether the filing meets the requirements of this chapter, the commissioner shall require the insurer to furnish the information upon which it supports the filing and the waiting period commences as of the date the information is furnished. Every insurer shall file or incorporate by reference to material which has been approved by the commissioner, at the same time as the filing of the rate, all supplementary rating and supporting information to be used in support of or in conjunction with a rate. The information furnished in support of a filing may include:
 - a. The experience or judgment of the insurer or advisory organization making the filing.
 - b. Its interpretation of any statistical data upon which it relies.
 - c. The experience of other insurers or advisory organizations.
 - d. Any other relevant factors.

A filing and any supporting information is open to public inspection after the filing becomes effective. Specific inland marine rates on risks specially rated, made by an advisory organization, must be filed with the commissioner.
2. After reviewing an insurer's filing, the commissioner may require that the insurer's rates be based upon the insurer's own loss and expense information. If the insurer's loss or allocated loss adjustment expense information is not actuarially credible, as determined by the commissioner, the insurer may use or supplement its experience with information filed with the commissioner by an advisory organization. Insurers utilizing the services of an advisory organization must provide with their rate filing, at the request of the commissioner, a description of the rationale for such use, including its own information and method of utilization of the advisory organization's information. This chapter does not require any insurer to become a member of or a subscriber to any advisory organization.
3. The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.
4. Subject to the exceptions specified in subsection 5, each filing must be on file for a waiting period of sixty days before it becomes effective. The period may be extended by the commissioner for an additional period not to exceed fifteen days if the commissioner gives written notice within the waiting period to the insurer or

advisory organization which made the filing that the commissioner needs the additional time for the consideration of the filing. Upon written application by the insurer or advisory organization, the commissioner may authorize a filing which the commissioner has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing is deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

5. Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order or rule of a public body, not covered by a previous filing, becomes effective when filed and is deemed to meet the requirements of this chapter until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect. Specific inland marine rates on risks specially rated by an advisory organization become effective when filed and are deemed to meet the requirements of this chapter until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.
6. Under any rules the commissioner may adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision, or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. The orders and rules must be made known to insurers and advisory organizations affected thereby. The commissioner may make any examination the commissioner deems advisable to ascertain whether any rates affected by the order meet the standards set forth in subdivision e of subsection 1 of section 26.1-25-03.
7. Upon the written application of the insured, stating the insured's reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.
8. No insurer may make or issue a contract or policy except in accordance with the filings that have been approved and are in effect for the insurer as provided in this chapter or in accordance with subsection 6 or 7.
9. Nothing in this chapter may be construed to require an advisory organization or its members or its subscribers to immediately refile final rates or premium charges previously approved by the commissioner. Members or subscribers of an advisory organization are authorized to continue to use insurance rates or premium charges approved before July 1, 1991, or decreases from those rates or premium charges filed by the advisory organization and subsequently approved after July 1, 1991.